

Chevy Chase Village Board of Managers

May 14, 2007

BOARD OF MANAGERS

Douglas B. Kamerow, Chair	Present
David L. Winstead, Vice Chair	Present
Susie Eig, Secretary	Present
Gail S. Feldman, Treasurer	Present
Betsy Stephens, Assistant Treasurer	Present
Peter M. Yeo, Board Member	Present
Robert L. Jones, Board Member	Present

STAFF

David R. Podolsky, Legal Counsel	Present
Ronald M. Bolt, Assistant Legal Counsel	Present
Geoffrey B. Biddle, Village Manager	Present
Roy A. Gordon, Police Chief	Present
Michael W. Younes, Administrative Assistant	Present

Dr. Douglas B. Kamerow, Chair of the Chevy Chase Village Board of Managers, called the meeting to order at 7:32 p.m.

Swearing in of the Chair

Loretta Knight, Clerk of the Circuit Court for Montgomery County, Maryland administered the Oath of Office to Douglas B. Kamerow as Chair of the Board of Managers.

Swearing in of the Board Members:

Dr. Kamerow administered the Oath of Office to David L. Winstead, Gail S. Feldman and Peter M. Yeo.

Election of Officers

Mr. Yeo made a motion to nominate Douglas B. Kamerow as Chair, David L. Winstead as Vice Chair, Susie Eig as Secretary, Gail S. Feldman as Treasurer and Betsy Stephens as Assistant Treasurer of the Chevy Chase Village Board of Managers. Ms. Stephens seconded the motion. Dr. Kamerow, Mr. Winstead, Ms. Eig, Ms. Feldman, Ms. Stephens, Mr. Yeo and Mr. Jones voted in favor of the motion. The motion passed.

Approval of Minutes from the April 9, 2007 Board Meeting (Regular and Executive Sessions)

Ms. Eig submitted changes to the minutes prior to the meeting.

Ms. Feldman made a motion to approve the amended minutes of the April 9, 2007 Board Meeting (Regular and Executive Sessions). Mr. Winstead seconded the motion. Dr. Kamerow, Mr. Winstead, Ms. Eig, Ms. Feldman, Ms. Stephens, Mr. Yeo and Mr. Jones voted in favor of the motion. The motion passed.

Treasurer's Report

The Treasurer's report was distributed to the Board prior to the meeting. Discussion followed.

Committee Reports

Building Facilities Commission

Mary Anne Tuohey, Chair of the Building Facilities Commission, outlined upcoming events to be held in the Village Hall. The Committee on Children, Youth and Families will be holding a Parents Night Out in early June. Ms. Tuohey stated that the New Resident Social held before the Annual meeting was well attended. Dr. Kamerow and Ms. Tuohey thanked Amy Cooper of 5616 Grove Street and Karen Spangler of 5418 Grove Street, Co-Chairs of the Committee on Children, Youth and Families, for their efforts.

Mr. Winstead asked if event bookings in the Village Hall have increased since the new conference room has been built. Ms. Tuohey stated that rental of the Village Hall for events in May and upcoming in June are below normal. Dr. Kamerow requested the Board discuss the recent drop in use of the Village Hall at the June Board meeting.

Decisions on Previous Appeals

None.

Appeals

A-1550: Mr. and Mrs. Lee J. Jundanian, 15 West Lenox Street—Removal of one Eastern Red Cedar tree measuring 19-inches in diameter located in the east side yard of the property. Ms. Whiteside, landscape architect for Mr. and Mrs. Jundanian, was in attendance and presented the request on her clients' behalf.

Robert Elliott, Chair of the Village Tree Committee, submitted a report prior to the meeting via e-mail. Mr. Elliott wrote that the Committee supported the removal of the Cedar tree, stating that the tree does not contribute to the Village canopy.

Ms. Eig agreed that the cedar tree does not contribute to the Village canopy, but stated the reforestation trees mentioned in the landscape plan also do not meet the reforestation standards. She asked if the applicant would be willing to plant a tree to meet those standards. Mr. Jundanian agreed to plant such a tree.

Ms. Stephens asked if any native species were going to be planted. Ms. Whiteside stated that some native species would be planted, but added that care should be taken not to plant a monoculture due to the potential for disease. Discussion followed.

Ms. Stephens made a motion to direct Counsel to draft a decision approving the removal of one Eastern Red Cedar tree measuring 19-inches in diameter located in the east side yard of the property, provided the applicants reforest with at least 1 deciduous hardwood canopy tree which must be at least 2 ½ inches in caliper at the time of installation and must be of a species that achieves a mature height of at least 45 feet. Mr. Jones seconded the motion. Dr. Kamerow, Mr. Winstead, Ms. Eig, Ms. Feldman, Ms. Stephens, Mr. Yeo and Mr. Jones voted in favor of the motion. The motion passed. Ms. Whiteside asked for the decision to be expedited.

A-1617: Mr. and Mrs. Gary O. Cohen, 5511 Cedar Parkway—Removal of one Sweetgum tree measuring 11.2-inches in diameter located in the rear yard of the property. Mr. Cohen was in attendance to present his appeal.

Dr. and Ms. Mohler were in attendance to support the Cohens' appeal for the removal of the Sweetgum tree. Ms. Mohler stated that the tree does not look healthy and is concerned the tree may negatively affect her house's foundation. Ms. Mohler urged the Board to support the removal of the tree.

Robert Elliott, Chair of the Village Tree Committee, submitted a report prior to the meeting via e-mail. Mr. Elliott wrote that Committee supported the removal of the Sweetgum tree by a two to one vote.

Ms. Eig stated she did not believe the tree was influencing the growth of a nearby Magnolia and stated she was not in support of the removal because the tree contributes to the Village's tree canopy.

Ms. Stephens asked if Mr. Cohen has proposed a reforestation tree. Mr. Cohen stated he did not feel it was necessary. Discussion followed.

Ms. Feldman made a motion to direct Counsel to draft a decision approving the removal of one Sweetgum tree measuring 11.2-inches in diameter located in the rear yard of the property, without requiring reforestation. Mr. Winstead seconded the motion. Dr. Kamerow, Mr. Winstead, Ms. Feldman, Mr. Yeo and Mr. Jones voted in favor of the motion. Ms. Eig voted in opposition of the motion. Ms. Stephens abstained from voting. The motion passed.

A-1618: Mr. Dane H. Butswinkas and Ms. Megan E. Rupp, 3 Newlands Street—Removal of one Black Gum tree measuring 14.6-inches in diameter located in the rear yard of the property. Ms. Fendrick, landscape architect for Mr. Butswinkas and Ms. Rupp, was in attendance and presented the request on her client's behalf.

Robert Elliott, Chair of the Village Tree Committee, submitted a report prior to the meeting via e-mail. Mr. Elliott wrote that all members supported that removal of the Black gum tree. Discussion followed.

Mr. Jones made a motion to direct Counsel to draft a decision approving the removal of one Black Gum tree measuring 14.6-inches in diameter located in the rear yard of the property, provided the applicants reforest with at least two (2) deciduous hardwood canopy trees which must be at least 2 ½ inches in caliper at the time of installation and must be of a species that achieves a mature height of at least 45 feet. Ms. Stephens seconded the motion. Dr. Kamerow, Mr. Winstead, Ms. Feldman, Ms. Stephens, Mr. Yeo and Mr. Jones voted in favor of the motion. The motion passed. Ms. Eig abstained from voting, stating that the tree does in fact contribute to the Village Canopy. Ms. Fendrick asked for the decision to be expedited.

Old Business

Winter and Company Briefing (Video Conference)

Noré Winter joined the Board meeting via video conference from Texas to discuss the concerns and issues raised by Village residents during the open houses and community workshops held in the Village Hall. A synopsis of the update follows:

- Those who attended the sessions described the Village's character as diversified with a variety of building designs as well as differences in architectural styles and building size.
- Many residents stated there is a high degree of similarity of building types and styles as related to a geographic area such as the far east or west side and that home sizes generally related to lot size.
- Many residents stated that garages and driveways traditionally are visually subordinate to the main residence regardless of whether the garage is located in the rear of the property or attached to the side of the house.
- Many issues were raised regarding the large size of newer houses particularly on small lots and the construction of sub-surface structures within the side yard setbacks such as stairs and terraces. Also stated was that the newer styles of building construction do not fit the current streetscapes of the Village as it relates to mass and scale on the west and east sides.
- Storm water runoff and the amount of impervious surfaces were discussed numerous times.
- During the workshops, attendees were shown three (3) different buildings that were supposedly located in different areas of the Village. The intent was to have attendees choose the one with the appropriate size for the area and to see if there was an increase in acceptance if the house was broken up into smaller masses. The majority of people felt that all of the houses were too big and did not fit with the lot sizes.

Mr. Winter stated that any proposed additional regulations should be kept simple and easily measurable and that at this time it appeared that design guidelines would not be strongly supported. Residents were concerned that any new or revised regulations put in place should not infringe on the rights of the property owner(s).

Mr. Jones asked if those who attended discussed any frustrations with the Historic Preservation Commission (HPC) and its design standards interpretation. Mr. Winter stated that some comments were heard regarding the inconsistent nature of HPC's interpretation of its guidelines but many also said that they felt the historic district brought value to the property.

Dr. Kamerow asked about the next steps. Mr. Winter stated that he is going to draft the preliminary strategy report that will outline a summary of key characteristics and issues as well as possible solutions that were gathered from the workshops and open houses. A survey would be developed and sent to residents to gather feedback on what they think about each of the possible solutions such as floor area ratios, maximum lot coverage, size or building height restrictions and the method by which it is measured as well as methods of implementation for each.

Ms. Stephens stated that it was difficult to understand the visual renderings and that she felt that the survey would be more informative if there were a greater understanding of the types of options that the Board and the Village are considering. Ms. Feldman and Mr. Jones agreed.

Mr. Winter stated that he felt comfortable making preliminary recommendations with the data collected thus far but added that the survey remains an essential data-gathering tool. It will ensure all resident voices have a means to be heard and help confirm or cause him to revise his preliminary recommendations.

Mr. Yeo asked for clarification on what the survey would look like and voiced his concern that an adequate sampling of the residents in the Village has not been gathered. Mr. Winter stated that the survey would have multiple illustrations of how new or revised regulations would look as well as the effect they would have on the Village.

Ms. Feldman stated she felt that the survey should be more focused around a list of potential solutions to address certain issues and at the end have illustrations depicting the new or revised regulations' effect on buildings.

Ms. Eig stated that she felt that the survey should focus around a specific set of new and revised regulations being considered and then ask general questions about those regulations.

Dr. Kamerow stated that it would be helpful to have a list of the issues and how they would be addressed that would assist the Board in developing the survey.

Mr. Winter stated that the preliminary strategy report would be presented to the Board at its June meeting and, based on the report, the survey would be drafted within approximately two weeks for Board review and approval.

Mr. Yeo stated that the survey needed to be timed so that the number of responses is maximized.

Diane Kartalia of 5412 Grove Street asked if the video conference would be available on the website. Mr. Biddle stated that it was not recorded but arrangements would be made for the June 11 video conference to be recorded and linked to the website.

New Business

Discussion – Building Code vs. Design Review

Mr. Podolsky stated that under House Bill 1232 the Village has the authority to regulate design. Based on the recommendations from *Winter and Company*, Mr. Podolsky stated that if the Board

decides to regulate design, the standards developed must be as objective as possible and with limited discretion. Maryland law states that aesthetics cannot be used as the sole criteria for review.

Ms. Feldman asked what the possibility was of the Village opening itself up to legal liability issues in setting standards that were too subjective. Mr. Podolsky stated that if the regulations are too subjective the Board could be accused of being arbitrary.

Dr. Kamerow stated that any guidelines need to be clear, reproducible and measurable and that the guidelines need to be in line with an overall strategy that the Board wants to achieve through the design review process.

Jane Roemer of 5402 Center Street stated that she did not understand why *Winter and Company* was not looking into design review standards. Mr. Podolsky responded that part of what *Winter and Company* is tasked with is to determine the feasibility of possible design review standards as they may or may not relate to the Village and if there is support for such standards.

Mr. Winstead stated that if any design review guidelines are created there might be a need to also develop and employ additional processes for appeals, special permits and variances.

Ms. Roemer stated that she attended the workshops and did not recall anything being discussed about design guidelines. Mr. Yeo stated that discussions have been more focused around education on the new law and that communication with *Winter and Company* has been focused on objective and measurable criteria.

Ms. Eig stated that due to variation in lot sizes and design styles within the historic district and throughout the rest of the Village, guidelines by nature would need to be more conceptual.

Contract Award

Independent Audit Services—*Stegman and Company*: Contract information was circulated to Board members prior to the meeting.

Ms. Feldman made a motion to authorize the Village Manager to enter into a contract with *Stegman and Company*, for audit services for FY2007. Mr. Jones seconded the motion. Dr. Kamerow, Mr. Winstead, Ms. Eig, Ms. Feldman, Ms. Stephens, Mr. Yeo and Mr. Jones voted in favor of the motion. The motion passed.

Authorization – Banking Business:

Activating on-line services

Mr. Biddle stated that three (3) years ago the Village was the subject of fraudulent checks being cashed out the Village accounts totaling approximately \$55,000. Since that time, Chevy Chase Bank has implemented a program called “positive pay”. Each time the Village prints checks, a spreadsheet of the check registry is emailed to Chevy Chase Bank and anytime a check is deposited or cashed, the check has to match up with the check number, amount and payee on the

register. Chevy Chase Bank has informed the Village that they are upgrading their system and the emailing option will be no longer available.

In order to maintain the current level of security, Mr. Biddle stated that the Village needed to switch to the bank's online option to upload the check register. The online version will allow access for an authorized individual to upload the check registry and to review which checks have been deposited or cashed.

Ms. Stephens asked if there is still sufficient protection. Mr. Biddle stated yes for the time being but that within a couple weeks the Village's ability to continue using "positive pay" would disappear without switching to the on-line version.

Ms. Feldman stated that on-line access allows us to view the activity within the account but it is no substitute for providing the Bank with a list of acceptable checks.

Dr. Kamerow stated that his concern was that the transactions online required a password which is the only form of protection and asked what replaces the Village sending the spreadsheets to the Bank. Mr. Biddle stated "nothing," if the Board does not authorize on-line access.

Ms. Feldman stated that on-line access only allows us to view transactions after they have been posted. Mr. Biddle stated that the on-line access would be set up so the Village office would enter the check registry into the Bank's system instead of emailing it the Bank and having someone enter it there.

Pooling existing accounts

Mr. Biddle stated that currently the existing payroll account carries a \$50,000 - \$70,000 standing balance, to ensure that paychecks clear. He added that the payroll account does not generate any investment interest and proposed linking the payroll account with the existing operations account that does generate interest.

"Closed-loop" wire transfers

Mr. Biddle stated that four (4) to eight (8) times a year Jackie Parker must go to the Bank to execute a wire transfer to move funds to the Maryland Local Government Investment Pool (MLGIP). Mr. Biddle proposed using "closed-loop" wire transfers where there is one source account at the bank and one destination account at MLGIP. The office would then be able to fax an authorization form signed by two of four authorized signatories to the bank to execute the wire transfer.

Mr. Yeo made a motion to approve conceptually, pending review by Legal Counsel, activation of on-line services with Chevy Chase Bank, linking the payroll account with the existing operations account and authorization of "Closed-loop" wire transfers. Mr. Jones seconded the motion. Dr. Kamerow, Mr. Winstead, Ms. Eig, Ms. Feldman, Ms. Stephens, Mr. Yeo and Mr. Jones voted in favor of the motion. The motion passed.

Chairman's Report

None.

Manager's Report

Capital Projects – Timelines and Decision Framework:

Mr. Biddle stated that the Capital Improvements Program (CIP) is a 5-year plan that typically guides the development of public works or other long-range projects. The CIP shows the arrangement of projects in a sequential order based on a schedule of priorities and assigns an estimated cost and anticipated method of funding each project. With approval by the governing body, the CIP provides the financial foundation necessary for implementation.

Brookville Road Walkway

Mr. Biddle stated that he currently estimates the project could be completed at an estimated maximum cost of \$1.6 million based on all comments that the Brookville Road engineering firm (RK&K) designed into the first draft of the 30% completion drawings. The drawings were reviewed and sent back to RK&K for rework. Mr. Biddle stated that the final 30% drawings are due by June 30.

Mr. Biddle stated that additional survey work may be needed.

Authorization from the Board would have to be granted for approximately \$100,000 to bring the engineering drawings to 100% completion.

Mr. Biddle stated that Mr. Younes has found that the Maryland State Highway Administration (SHA) has tentatively scheduled a pavement replacement project for Brookville Road in FY2010.

Sidewalks Replacement Program

Mr. Biddle stated that the project could be completed within two (2) years with contract labor and ten (10) years with both contract and “in-house” labor at maximum cost of \$3.5 million for 300,000 square feet of sidewalk.

Mr. Winstead asked what percentage of the houses in the Village have sidewalks. Mr. Biddle stated approximately 75%.

Mr. Yeo asked what material would be used. Mr. Biddle stated that the majority of discussions have focused around brick or concrete pavers. Mr. Biddle added that some vendors have suggested installing four-foot by ten-foot sections of sample sidewalks to allow for resident input.

Mr. Yeo requested that before the sidewalk replacement program moves forward the Board discuss it at a future meeting.

Mr. Winstead asked if there was a sense of whether residents wanted sidewalks. Mr. Biddle stated that in the resident survey many had written in comments in support of new and additional sidewalks throughout the Village.

Ms. Eig suggested that the residents in the Village be surveyed to gather an understanding of the routes they walk and to help gauge where new sidewalks should be installed.

Communications Conduits

Mr. Biddle stated that this project is the most controversial due to the desires of *Verizon* to provide its own fiber optic communications network services within the Village.

Mr. Biddle stated that the Village together with *Columbia Telecommunications Corporation* (CTC) has been working to develop a plan that will be attractive to *Verizon*, RCN and *Comcast* to provide their networks to the Village residents via an underground conduit system.

Mr. Biddle stated that placement of the conduit systems under the sidewalks is the preferred location. Using directional boring technology it is possible to get all conduits four feet (4') deep, which would clear tree roots.

Streetlights

Mr. Biddle stated resident support would have to be gained for the placement of new lights. The types and styles of the lights still need to be discussed. Any lights that are installed will need to be properly shielded to comply with Project Dark Sky.

Connecticut Avenue Revitalization

Mr. Biddle stated that completion of the revitalization project could span between three (3) and twenty (20) years. Two decisions will be needed in the near term. First is to financially support the fundraising committee in its efforts to obtain additional graphics it may need for use in the fundraising campaign. Second is to obtain an engineering survey of the Connecticut Avenue corridor from which construction plans could be built.

Mr. Biddle stated that the fundraising committee, Lee Jundanian of 15 West Lenox Street, Robert Josephs of 3 Grafton Street and Catherine West of 142 Grafton Street, have indicated that they would like to begin fundraising in September and will come to the Board in June for a funding request for graphics.

Speed Camera Update

Mr. Biddle stated that last month the Board directed him to coordinate with the Cities of Gaithersburg, Rockville and Takoma Park on potential projects for which the revenues from speed cameras might be used, and to jointly request an opinion from the State's Attorney General interpreting the law and authorized uses for the revenues.

Mr. Biddle stated that, after consideration, he felt it was not in the best interest of the Village to request an opinion together with the much larger municipalities.

Mr. Yeo asked if there is a requirement to ask the State's Attorney General for the ok on potential projects and, if there is not, why we are asking.

Mr. Winstead, Ms. Feldman and Mr. Jones stated concerns for not having an official position to defend.

Mr. Podolsky stated that as the law is written, monies collected from the program can be used solely to increase expenditures for related public safety purposes and that revenue from this program may not supplant existing expenditures for the same purpose.

Mr. Podolsky added that one way to determine if potential projects are fundable using revenues generated by speed cameras is to ask for a formal opinion from the State's Attorney General.

The Board authorized Mr. Biddle to work with Legal Counsel independently of the other jurisdictions to request a formal opinion from the State's Attorney General to determine if projects that the Village is planning will be fundable using the revenues from speed cameras.

Discussion – Tree Preservation Plans

Mr. Biddle stated that together with the Village arborist, the Village office develops tree preservation plans in advance of the building permit review process. Mr. Biddle proposed to recognize the tree preservation plans as a stand alone process and to modify the Building Code to reflect this independence.

Ms. Eig stated that there was not a need to have a tree preservation plan unless there is a building project and asked if there was another way in which residents could receive approval for the building permit on the condition of implementing the tree preservation plan. Mr. Biddle stated that that is close to how the approval process is conducted now but that there are times, for example within the historic district, where the tree preservation plan is developed months before the building permit review begins in the Village office.

Ms. Eig added that if the tree preservation plan is developed months in advance of final building permit approval the impact on trees and plants might change before the preservation procedures are actually implemented.

Mr. Biddle stated that if tree preservation procedures are implemented and the Village arborist signs off on them prior to the Village office reviewing the building plans, it would ensure that no trees and root systems are harmed on the property.

Ms. Feldman asked if it was possible to review a building project and tree preservation plan simultaneously and to place a provision on the building permit that the permit is void if the tree preservation plan is not implemented. Mr. Biddle said that it might not stop a contractor from causing harm to a tree.

Mr. Biddle requested authorization to work with Legal Counsel to develop new standards for requirements and approval of tree preservation plans.

Mr. Yeo asked if, for example, there is an approved tree preservation plan and then there are alterations to the construction plans during the permit review process, is there a requirement to go back and revise the tree preservation plan?

Mr. Biddle responded yes and requested that discussion be continued at a later Board meeting. In the interim, he will work with Legal Counsel on the issue.

The Board agreed to revisit the topic at a later date.

Supplemental Appropriations: Parks/Operations – Tree Programs

Mr. Biddle stated that the FY 2008 budget included an anticipated current year supplemental appropriation of \$75,500 for tree programs and requested that the Board authorize a supplemental appropriation of \$75,500 from reserves allocated to Parks, Trees and Green Space.

The Board unanimously approved a supplemental appropriation to reallocate \$75,500 from reserves to Parks, Trees and Green Space.

Montgomery County Emergency Management Group

Dr. Kamerow stated that Mr. Biddle received a letter from the County's Homeland Security Director, Gordon Aoyagi, commending Mr. Younes for his efforts and involvement as the Village's representative on the County's Emergency Management Group. Dr. Kamerow praised Mr. Younes on his achievement and service to the Village.

Police Report

The monthly Police Report was distributed to the Board prior to the meeting.

Mr. Winstead made a motion to adjourn the open meeting and meet in Executive Session pursuant to Maryland Code, State Government Article, section 10-508 (A) (1) to discuss a personnel matter and pursuant to Maryland Code, State Government Article, section 10-508 (A) (7) to obtain legal advice on the processing of solicitor permits. Ms. Stephens seconded the motion. Dr. Kamerow, Mr. Winstead, Ms. Eig, Ms. Feldman, Ms. Stephens, Mr. Yeo and Mr. Jones voted in favor of the motion. The motion passed. The open meeting adjourned at 10:23 p.m.

Secretary, Chevy Chase Village Board of Managers

Final.